

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

STEVEN E. WARMAN,

Plaintiff,

v.

Civil Action No. 2:08cv100

BRIAN P. HALLORAN,,

Defendant.

ORDER

It will be recalled that on September 30, 2008, Magistrate Judge John S. Kaull filed his Report and Recommendation, wherein the parties were directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. No objections have been filed. Accordingly, the Court will review the Magistrate's Report and Recommendation for clear error.¹

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised by the Plaintiff in his Motion for Permission to Seek Interlocutory Appeal and/or Request for Diversity Jurisdiction and his Motion to Proceed as a Pauper, wherein Plaintiff seeks this Court's permission to file an interlocutory appeal on an order of a Kentucky state court or to transfer jurisdiction based upon diversity, were thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. Moreover, the Court, upon a review for clear error, is of the opinion that the Report and

¹The failure of a party to object to a Report and Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

ORDERED that Magistrate Judge Kaull's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Plaintiff's Motion for Permission to Seek Interlocutory Appeal and/or Request for Diversity Jurisdiction shall be, and the same hereby is, **DENIED**. It is further

ORDERED the above-styled civil action shall be, and the same hereby is, **DISMISSED with prejudice**. It is further

ORDERED that the Plaintiff's Motion to Proceed In Forma Pauperis shall be, and the same hereby is, **DENIED as moot**. It is further

ORDERED that the above-styled action shall be **STRICKEN** from the docket of this Court. It is further

ORDERED that, if a party should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis from the United States Court of Appeals for the Fourth Circuit.

ENTER: January 12th, 2009

/s/ Robert E. Maxwell
United States District Judge